

GEAR IS REVERSED

Award of \$15,000 Alimony Set Aside.

(From Saturday's daily)

Judge Gear was reversed by the Supreme Court yesterday in his allowance of half of an estate of \$30,000 in a lump sum to Libano de Nobrega in her divorce suit against Sylvano de Nobrega.

The Supreme Court in an opinion written by Justice Galbraith, concurred in by Perry and Judge Little, circuit judge, holds that Gear erred in not only his division of the real estate but also in the allowance of temporary alimony to a woman, who is not in destitute circumstances. A concurrent opinion is written by Justice Perry in which he differs with the majority opinion only as to one or two minor questions.

The pith of the ruling is contained in the syllabus which reads as follows:

Under Section 1943, Civil Laws, authorizing the Circuit Court, upon granting a divorce for the adultery of the husband, etc., to "make such further order or decree against the defendant, compelling him . . . to provide such suitable allowance for the wife, for her support as the court shall deem just and reasonable," . . . the court may make such allowance in gross.

The court has no power under this statute to order a division of the husband's real estate and to vest title to a part thereof in the wife.

A wife who owns in her own right real estate of the value of \$3,500 or \$4,000 is not in "destitute circumstances," as provided in Section 1943, Civil Laws, and an allowance to her of temporary alimony cannot be sustained.

This case was decided but a short time ago by Judge Gear. The evidence showed that the defendant was living in open adultery with another woman and he was severely censured by the court, in the decree, allowing the divorce, and granting the wife half of the estate of her husband.

The Supreme Court holds in its opinion that the fact "that libellee expressed a willingness to pay alimony in land rather than money certainly cannot estop him from contesting the power of the court to compel him to give one-half of his land."

Regarding the allowance of a lump sum as alimony the court says: "No good reason has been suggested nor does any appear to the court on its investigation why under the terms of our statute the court could not make an allowance to the wife of a gross sum as alimony or in lieu thereof."

In regard to the action of the court in dividing the estate the opinion reads: "We have heretofore found that under the evidence of the case, the decree cannot be sustained, on the theory of the consent of the parties, and we now conclude that the court had no power under the statute to order a division of the real estate."

The trial court was in error in the decision in finding that the real property in the name of the libellant should be divided and one-half conveyed to the libellee. Under Section 1943, Civil Laws, on the entry of the decree of divorce, the real estate owned by the wife became her "sole and absolute property." The court was also in error in making the order for the payment of \$15.00 per week as temporary alimony. This order can only be sustained on the theory that the libellant was in "destitute circumstances." (Section 1943, Civil Laws.) The court found that the libellee owns in fee real estate of the value of \$3,500 or \$4,000. Such a person cannot be said to be in "destitute circumstances," and unable to support herself pending the litigation in this case.

The order of the Supreme Court is: "The exceptions are sustained and the decree allowing temporary alimony and dividing the real estate is reversed and the cause remanded to the Circuit Court with directions to make to libellant such suitable allowance as the court shall deem just and reasonable, and for such further proceedings, consistent with the foregoing opinion as may be necessary."

Judge Perry says: "I concur in the conclusion that the court below was without authority, whether derived from statute, from the alleged stipulation or consent of parties, or otherwise, to decree a division of the real estate owned by the libellee or the conveyance by the libellee to the libellant of a part of such real estate, and am of the opinion for this reason that the decree entered must be reversed and a new trial on the question of alimony ordered."

George Davis appeared for libellant and J. T. De Bolt for libellee.

CABLE AND CANAL.

Hepburn Will Push Both Bills at Coming Session.

WASHINGTON, Nov. 14.—Representative Hepburn of Iowa, chairman of the Interstate and Foreign Commerce Committee of the House, and Representative Sherman of New York, a member of the same committee, had a long conference with the President today about the isthmian canal and Pacific cable legislation.

As a result of the consultation they announced that it was their purpose to press legislation on both subjects at the earliest possible moment. The canal bill which passed the House at the last session will be reintroduced in substantially the form in which it was passed last winter. No delay is anticipated in the committee, as the whole subject has been canvassed thoroughly. Colonel Hepburn told the President that the bill undoubtedly would have a large majority in the House.

The cable bill will be identical with the one reported from the committee during the last Congress. It provides for the laying of the cable by a private corporation under a contract with the Postmaster-General, with an alterna-



DESPITE the prevailing tight condition of the money market, the local brokers are generally optimistic as to the prospects for the coming year. A well known broker has written a close friend, formerly a resident of Honolulu, but now residing in the East, and who is largely interested in Hawaiian securities, as follows:

"The chief reason for this condition of affairs can be traced to the lack of coin in the community. There seems to be an abundance of faith in the future of sugar, after carefully considering the future of Cuba. Advices have come to us through reliable sources that Cuba is not going to recover herself in a short space of time, as is generally supposed. The estates there are somewhat devastated and Cuban planters are making no further improvement or putting out any money in new crops until Congress makes some disposition of the Cuban question. In the meantime the plantations of Hawaii are progressing, never hesitating to expend large sums of money where it might be deemed expedient. Wherever it is shown that a dollar of expense will bring back two on these estates, the money is quickly raised and put into use."

"The present financial stringency can easily be traced by reviewing the expenditures of the past year. In the neighborhood of \$9,000,000 were sent out of the country for new material such as mills, pumps and other appliances. Some \$7,000,000 were called in on assessments on stocks which money is represented in new fields of cane growing for the 1902 crops. Then again, there have been considerable building operations going on here, such as the Alexander Young building, Boston Block, Stangenwald Building, all of which mean thousands of dollars going out of the country for material such as iron, stone and inside furnishings."

"The Honolulu Rapid Transit company represents an expenditure of about \$1,000,000 which has largely been sent to the mainland for material. Then again all of the dry goods and liquor merchants, as well as merchants in other lines, stocked up heavily in English and other European goods previous to annexation in order to save the excessive duties that are now imposed under the American laws. All in all it is quite safe to estimate that fully \$19,000,000 or perhaps \$20,000,000 can be accounted for in one way or another as having been spent during the year."

"The income of the country from 200,000 tons of sugar, together with rice and bananas did not more than cover these expenditures. How then, can we expect money to be easy in Honolulu at present. We have had very little foreign capital to assist us, the money coming entirely from our earnings."

"Now that all these improvements are paid for and there are no new enterprises contemplated I do not see why the revenue from the 1902 crop of sugar and rice should not go a great way toward easing up things here. I predict that wealthy men with large incomes will invest heavily in sugar stocks at present prices. Next year will see a more prosperous and healthier condition of affairs in Hawaii, no?"

INACTIVE STOCK MARKET.

Stocks were inactive during the week and trading in them was lacking in the elements of a brisk market. It was an unusually dull week and the brokers had to scratch to make any kind of a showing on their lists. As recorded on the official lists of the Honolulu Stock Exchange, just 655 shares changed hands, divided as follows: Oohala, 5; Ewa, 500 at 24; Kahuku, 50 at 24; Olua, assessable, 100 at 2; Waimanalo, 10 at 100, or about \$15,000 worth of business transacted on and between boards. The quotations show a tendency to remain where they are at present.

EXTENSION OF BISHOP STREET TO ESPLANADE.

The proposition to extend Bishop street, the new thoroughfare made possible by the building of the Young Block, from King street to Merchant street and thence on through to Kilaua street and meeting the Esplanade at right angles, is occupying the attention of business men. Maps showing the proposed cuts through the blocks mentioned have been made, and several meetings already held to consider the matter. The street starts at the Hotel street corner of the Young Building, almost opposite Union street. The continuation of the street would about the Emmeluth store and would take off a small portion of the Waikiki side of Schuman's carriage repository on Merchant street. From this point the proposed street would slant off Waikiki ward to meet Kilaua street. This would open an artery in the business district and would divert much of the heavy traffic now encumbering Fort street, one of the narrowest of Honolulu's streets, and also open up new building areas.

The real estate market is very dull and will so continue until money is easier.

Provision for the building of the cable by the Government if no satisfactory contract can be made. It is understood that the President concurred in the proposed programme.

NEW YORK, Nov. 15.—It was learned yesterday that the copper trade in general is now figuring upon the contract that is expected to result from the projected laying of a cable to the Philippines. It is estimated that the cable will be about 7,000 miles long. Submarine cables contain from seventy-five to 650 pounds of copper to the mile, and the Philippine cable will probably run from 450 to 650 pounds. That would mean, roughly, 4,000,000 pounds of copper.

Statistics as to the copper trade situation in October were given out by John Stanton, the copper statistician, today. The production in 1900 was about 605,000,000 pounds, and the consumption was 335,000,000 pounds, by United States official figures. The year 1900 was an off year on account of the Presidential election, and the trade was not up to the usual standard. The consumption in 1901 will undoubtedly be the largest on record, probably 20 per cent larger than in 1900, which would make it 425,000,000 pounds.

MANILA, Nov. 15.—The Chamber of Commerce has cabled to President Roosevelt urging that the Pacific cable be laid and saying that the main object would be immense increasing of the rubber industry of the Philippines, estimated at \$15,000,000, and also economy and the facilitation of business.

MIDNIGHT MIX-UP ON GARDEN ISLE

Purser Clark of the steamer Waimalea, which arrived yesterday noon from Kauai, brings news of a fight which took place at Waimalea a few days ago. It appears that two men named Wyman and Hickey were drinking in the Waimalea saloon.

Later in the evening Wyman in happy forgetfulness of his earthly surroundings turned into Hickey's bunk, in the rooms which are connected with the saloon. Hickey, however, was more particular about the spot where he rested, and when he found Wyman in his bunk he objected. Matters lived up very quickly. Hickey objected to Wyman's being in his bed, and Wyman objected to being turned out, and the debate became quite heated. At last Hickey seized a wine bottle (it was empty), and used it in the way of an argument, with such results that Wyman now is wearing his head in a sling, having been cut very severely, especially above the eyebrow. Hickey has been arrested.

WEDEMEYER—Kolea, Kauai, November 7, 1901, to the wife of H. Wedemeyer, bookkeeper of the Kolea Sugar Co., Ltd., a son.

WOULDN'T DRINK WITH A NEGRO

(From Saturday's daily.)

Because a white man would not drink with a negro at the invitation of another white man there was a fight in the Orpheum Cafe last night which caused the police to interfere at the suggestion of the proprietor, and the man who issued the invitation was taken to jail. The trouble began when two negroes and a negress, who had been attending the show in the Orpheum theater, came out of the playhouse during one of the acts to the relief of many of the patrons. One of the negroes had imbibed considerably more liquor than he could stand and therefore tried to "show off" to the audience. His air of superiority and display of nonchalance attracted the favorable attention of an inebriated man and the negroes were invited into the Cafe to drink.

The white man's companions entered an objection to drinking with a negro and for an answer one of them was given a cuff behind the ear which sent him sprawling over a couple of chairs. The commotion brought Manager Cohen and two policemen into the cafe and the manager asked for quiet. The host defied the officer's authority to arrest him and made so many remarks, coupled with considerable noise that the officer finally placed him under arrest and sent for the patrol wagon. One of the negroes also defied the officer to do anything to him.

"I represent de awmy, sah," said he flashing an official looking document in the officer's face. "I hold's in my hand, sah, mah fu-lough from de awmy, an' ah cawn't be teched, sah, no sah. I suppose de people around' heah think we've got a thousan' razahs on us, but we don't need no razahs, for we've got de awmy back of us, sah. It's a soljah of de United States awmy an' can prove what ah say."

The officer let the man ramble on to the amusement of the bystanders, and an artilleryman standing nearby muttered that the soldier on furlough was a disgrace to the army. The friends of the men under arrest attempted to tell the officer what he should do and "sass'd" him to such an extent that the officer threatened the entire crowd with arrest if they persisted and quiet settled upon the group.

Say They Don't Draw the Line.

Inquiry at the leading hotels of London respecting the color line in connection with the International Methodist church council brings out the uniform reply: "We absolutely will not discriminate against negroes. All respectable Americans, black or white, are the same to us."

BURGLARS ENTER CASTLE & COOKE'S

Castle & Cooke's office, at the corner of Bethel and King streets was reported last night about 8:30 o'clock, as having its street doors open. The door leading from King street to the building way to the offices in the second story was found open, from which an entrance to the main office of Castle & Cooke had been reached by a door which opens into the hallway. The big iron door at the rear of the building, behind the elevator, and the wire door leading to Mr. Bowen's office and opening into the back yard, were also found open. George Watts, patrolman for the Merchants' Patrol, made the discovery on his rounds, and it was his theory after making an inspection of the interior, that burglars had effected an entrance.

According to Watts' statement he noticed the stairway door, which is usually closed at night, standing ajar. He investigated and found the door leading to the main office secured by a string to a chair, evidently tied by some person upon quitting the building. Watts' theory is that the lock on this door was picked. He went through the large room and upon reaching the elevator shaft saw the rear iron door wide open. He went into the office occupied by Mr. Bowen and Mr. Terney, and discovered the wire protecting door open. As far as he could learn nothing had been disturbed. The safes seemed intact, and there was no evidence of violence on desks or cabinets.

SPORTING ITEMS FROM MAINLAND

Acclius, the speedy son of For Freedom, won the big coursing stake at Petaluma, won the big coursing stake at Petaluma.

"Boots" Duggan's horses are barred from San Francisco tracks.

Logue rode a good winner at Oakland on the 15th.

Sam Loates, the noted English jockey, has been seriously injured.

Joe Gans knocked out Jack Hanlon in two rounds.

The Marquis of Queensberry is bankrupt.

Henley stewards will not exclude foreigners.

"Dummy" Rowan and Jimmy Burns fought a twenty-round draw.

"Kid" Parker of Denver knocked out Morris Jacobs in the second round.

At the end of the fifth day of the gas-ou-please race at Pittsburg, Cavanaugh was forty miles ahead. He has only rested five hours since the start, and has covered 45 miles.

Joe Walcott and Young Peter Jackson are to fight.

Alfred Mace, a son of Jim Mace, the old-time English pugilist, is evangelizing in San Francisco.

In the preliminaries of the Jeffries-Ruhlin fight, "Spider" Welch knocked out Joe Fields in the fifth round, and Billy Condon and Mike Curtin fought a draw.

A VIOLENT ATTACK OF CROUP CURED.

"Last winter an infant child of mine had croup in a violent form," says Elder John W. Rogers, a Christian Evangelist, of Filley, Mo., U. S. A. "I gave her a few doses of Chamberlain's Cough Remedy and in a short time all danger was past and the child recovered."

This remedy not only cures croup, but when given as soon as the first symptoms appear, will prevent the attack. It contains no opium or other harmful substance, and may be given as confidently to a baby as to an adult. For sale by all druggists and dealers. Benson, Smith & Co., Ltd., agents for Hawaiian Territory.

McKinley Memorial Committee.

The executive committee of the McKinley memorial fund has received a letter from the chairman at Kohala, showing the contribution from Kohala to be \$20. The following are the members of the Honolulu committee: Henry Waterhouse, chairman; Shiozawa, John Lane, Roy H. Chamberlain, W. R. Farrington, Y. Sora, Charles L. Rhodes, S. E. Chang, J. D. Marques.

Gathmann's dynamite shell, fired from his big 15-inch rifle, the largest gun in the world, has proved a disastrous failure. The ordinary army 12-inch rifle with a shell filled with a small charge of high explosive, scored a big success, and it may revolutionize naval architecture.

G. N. WILCOX, President. J. F. HACKFELD, Vice President. E. SUHR, Secretary and Treasurer. T. MAY, Auditor.

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FROM ALL PARTS OF THE WORLD. Clarke's Blood Mixture is sold in bottles of 25c each, and in cases containing six times the quantity, its sufficient to effect permanent cure in the great majority of long-standing cases. By ALL CHEMISTS and PATENT MEDICINE VENDORS throughout the world. Proprietors THE LINCOLN AND MIDLAND COUNTIES DRUG COMPANY, Lincoln, England. Trade mark—"BLOOD MIXTURE"

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CAUTION.—Purchasers of Clarke's Blood Mixture should see that they get the genuine article. Worthless imitations and substitutes are sometimes palmed off by unprincipled vendors. The words, "Lincoln and Midland Counties Drug Company, Lincoln, England," are engraved on the Government stamp on the wrapper of the bottle. WITHOUT WHICH NONE ARE GENUINE.

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FOR HORSES.

So-bos-so (Killy) is invaluable as a disinfectant for spraying around the stable; at the same time prevents the flies from tormenting the horse while at work, especially draft horses, traveling at a slow pace and often times obliged to stand for long intervals, harnessed to the truck, exposed to the torture of the beastly flies, while the teamster is loading, unloading, or otherwise engaged. Blacksmiths will greatly appreciate the preparation. A moment's work with the Electric Sprayer and a little So-bos-so (Killy) will rid the shop of flies, and the horses stand perfectly quiet.

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Killy has proved a perfect success in this Territory, and until the arrival of large invoices recently, we have been unable to fill all orders. We have now a supply on hand and more on the way. Sufferers from the HORN FLY should give Killy a trial. We are the sole agents for the Territory of Hawaii.

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